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SUBJECT: FEAR, PARANOIA, AND TREASON - MOSCOW PREPARING FOR
CRISIS

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Classified By: Deputy Chief of Mission Eric Rubin. Reason: 1.4 (d).

11. (C) Summary: As the economic crisis deepens, a GOR-proposed expansion of the definition of espionage is being interpreted as a blatant attempt to further restrict and intimidate critics of the United Russia dominated government from organizing any opposition to the present power structure. In conjunction with a recent move to stop jury trials for terrorism, espionage, and even mass disorder, the proposal to change the definition of treason has ignited a firestorm on the part of human rights groups and political parties. While some within United Russia are concerned about the legislation and ultimately expect Medvedev to reject the change, a signal has nonetheless been sent to those, mainly shapers of both elite and more popular opinion, that they need to be careful in their dealings with foreigners at a time when Russia is struggling to contend with the consequences of a "foreign-produced" economic crisis. Embassy will monitor the discussion of this proposal carefully. We recommend that Washington consider consultations with other governments on this matter and a joint approach to the GOR to convey our concern for its implications for bilateral and multilateral cooperation, not to mention for Russian society itself. End Summary.

Legal Maneuvering

12. (SBU) The White House on December 12 proposed to the Duma legislation that, if passed, would fundamentally broaden the definitions of treason and espionage. The new language would denote as treason "activity against the security of the Russian Federation, including its constitutional order, sovereignty, territorial and state integrity." (Currently, the legislation defines treason as "hostile act" that threaten the "foreign security of the Russian Federation.") Analysis of the proposed legislation by USAID experts suggests that the new language is extremely vague -- to the extent that law enforcement bodies could accuse Russians rendering "financial, technical, consulting, or other assistance" to a foreign government or international or foreign organizations of treason. Indeed, under those terms, cooperation with Russian NGOs or individuals on programmatic assistance programs, such as those managed by USAID, or even work by FSNs in the Embassy, could be construed as criminal.

13. (SBU) Even before the proposed expanded definition, legal experts here criticized the criminal code's provisions on espionage for giving investigators too much discretion and creating opportunities for abuse. Igor Trunov, a prominent Moscow lawyer, told us that he believes many Russian laws (especially the espionage laws) are written in a deliberately vague manner, so as to give maximum possible discretion to investigators. He himself has lobbied unsuccessfully for tighter espionage laws. Instead, Trunov argued the new revised laws can only aggravate an already bad situation, by

expanding investigators' discretion and creating even more opportunities for abuse.

14. (SBU) The proposed legislation changing the definition of treason arrived at the Duma on the very day that the legislature passed an amendment to the criminal code that restricts jury trials for certain crimes related to state security. (The upper Federation Council approved the jury trial amendment on December 17.) If signed into law by President Medvedev, those accused of serious crimes, including terrorism, hostage-taking, the organization of illegal armed units, espionage, high treason, violent seizure of power, armed revolt, sabotage, and mass disorder, would have their case heard by panels of three professional judges rather than a jury of their peers (Reftel).

15. (C) Within the Duma, the Communists and the "leftist" Kremlin party, Just Russia, had sought to make changes to the bill that would have removed "mass disorder" from the list of crimes, according to press reports. Yelena Mizulina of Just Russia aggressively fought against the bill and told us she had support of other members of her party, but despaired that it was a "done deal" by the party of power United Russia. Mizulina told us that the treason/espionage law amendments were directly connected to the jury trial law and explained that both sets of legislation were designed, collectively, to give the siloviki the power to arrest anyone, with no judicial or prosecutorial oversight. She also said that while she had previously hoped to challenge the jury trial legislation in the Constitutional Court, she now realized that any such challenge would be useless as the Court's Chairman, Valeriy Zorkin, had been co-opted by the Siloviki on this issue.

Opposition in Uproar

16. (C) The human rights community has mobilized to protest the proposed legal changes, comparing the changes to Stalinist policies that intimidated those who sought contact with foreigners. Leader of the Moscow activists, Lyudmila Alekseyeva, held a press conference on December 17, with Svetlana Gannushkina of "Civic Action," Lev Ponomarev of "For Human Rights," and Academic Yuriy Ryzov and Erist Chernyy of the "Committee for the Defense of Scholars" to denounce the proposed legislation. Ponomarev noted that no lawyers in the country supported the changes to the jury trial law, besides those sitting in the Duma. Only totalitarian regimes equate criticism of the government with treason, he postulated, and warned the enactment of the laws would mark a transition point for the regime. Gannushkina raised concern about the treason law's reference to protecting "sovereignty," since the international conception of the term is changing in world practice - today many things that were formerly considered purely internal affairs of a country no longer are sacrosanct.

17. (SBU) Beyond the human rights community, the Kremlin-linked Public Chamber made a scathing criticism of the proposed legislation on jury trials. The Public Chamber's expert assessment dismissed the bill as "motivated by the interests of the security services," which sought an easy way to compensate for poor investigations and prosecutors' inability to convince jurors to hand down guilty verdicts. The report, passed to Federation Council Speaker Sergey Mironov, apparently did not have any affect on that body's decision to approve the legislation without any amendments. We expect similar criticism from the Public Chamber on the treason law and the legislature to likewise ignore their recommendations.

Duma Members More Circumspect

18. (C) Duma Legal Affairs Committee Chair Aleksandr Moskalets told us December 17 that he considered the proposed changes to the definition of treason to be "stupidity." He said he was confident that the draft law would not enter into effect

for two reasons: (1) He thought that there would be serious reservations within the United Russia faction in the Duma about supporting such extreme changes to existing legislation; and (2) Even if the draft were approved by both the Duma and Federation Council, he doubted that President Medvedev would sign it. When questioned about this, he said he had complete confidence in Medvedev's "legal mind and commitment to an open society." Moskalets confided in us that he had opposed the change to the law on jury trials, and was disappointed that he had not been able to convince his fellow United Russia deputies not to close this possibility for direct citizen involvement. Just Russia Deputy Oksana Dmitrieva also told us December 17 that she was troubled by the espionage law and that she expected Just Russia faction deputies to oppose it. Nonetheless, she would not predict whether it would ultimately be approved or not.

The Reason Why -----

¶9. (C) Amid the storm of criticism, some have sought to explain the timing and the "target" of those amendments. Voicing the most pervasive explanation, Alekseyeva publicly linked the legal changes to the regime's fear of losing control as the economic crisis deepens in the coming months. She highlighted the haste in which the jury law was passed -- taking only two weeks to pass both houses of the legislature -- as a sign of the growing concern within the top echelon of government about social unrest. Moskalets, in spite of his professed opposition to the laws, confirmed as much. "We have learned from the mistakes that were made in the past in keeping order during difficult economic times. There will not be another Russian revolution."

¶10. (C) New Times political editor Yevgenia Albats told us that the changes targeted journalists, politicians, and scientists who posed any sort of opposition to the regime. However, she did not see the economic crisis as the driving factor behind the decision to make changes now. Rather, she noted that discussions of changing the law on treason have long been under discussion among the security services. Albats ascribed the amendments to innate paranoia within "silovik" camp, including Premier Putin, that Russia is surrounded by enemies who seek to take advantage of any perceived weakness to undermine the regime.

¶11. (C) Others saw the push to expand the power of the investigative bodies as an insurance policy against any attempt by disgruntled members of the elite to use expected public dissatisfaction to challenge the existing order. Carnegie scholar Masha Lipman told us that the new laws fit within the tandem's strategy of preemption, providing tools to defend against a challenge from within the elite. Andrey Soldatov, Editor of the Agentura Website, argued in the Daily Journal that the changes are not aimed at the political opposition or human rights community, but instead are focused at intimidating journalists (and potentially businesses) looking for information on state corporations and other powerful businesses linked to the state -- like Gazprom and Rosneft.

Comment -----

¶12. (C) Whether or not the White House is serious about pressing forward with the treason law, the regime has issued a warning to opponents that it is prepared to "tighten the screws" in ways not experienced since Soviet times. The timing of the measures and the haste in which they have been pushed through the system suggests senior leaders are losing their confidence in their ability to control events -- a fear that recent demonstrations in the Far East and Urals against the regime's automobile import tariffs has likely deepened. While the systematic narrowing of independent political space in Russia during the good economic times of the past eight years elicited only moderate opposition, changes to the basic legal foundations on which some of that remaining political

freedom rests would mark a significant step backward. Ordinary Russians, beyond the usual Moscow and St. Petersburg intellectual and political circles are probably too focused on the severity of the economic downturn and pocketbook issues to be bothered by the imposition of these new political restrictions -- but increasing social discontent with the government's response to the crisis could change that calculus.

¶13. (C) Introducing a law that threatens citizens for having foreign contacts has already had a chilling impact. Yet, it has also united those who see this as crossing the Rubicon. The Ambassador has already conveyed his deep concern over these developments to GOR officials. We have also conferred with other embassies in Moscow about these proposals, whose representatives are equally concerned. We will monitor steps in the coming weeks and recommend that Washington consider consulting with other governments with the aim of a multilateral approach to the GOR, noting the consequences that the approval of the espionage legislation could have in all fields of cooperation, as well as for Russian society. End Comment.
BEYRLE